MONTANA LEGISLATIVE HISTORY

Chapter 204 1963

Bill H _____ S 142 Original bill & history ____C

| H. Committee on Highways | | | S. Committee on Highways and Transportation | | |
|---|---|---|---|---|---|
| Hearing Date(s) | Feb 23 | ✓C | Hearing Date(s) | Feb 07 | ✓C |
| | Feb 28 | ✓C | | _____ | ____C |
| | _____ | ____C | | _____ | ____C |
| | _____ | ____C | | _____ | ____C |
| Date Out | Feb 28 | ✓C | | Feb 02 | ✓C |

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

MINUTES OF MEETING OF
HIGHWAYS AND TRANSPORTATION COMMITTEE
STATE SENATE

February 7, 1963

A meeting of the Highway and Transportation Committee was called by chairman Bovey at 8:00 a.m., February 7, 1963 in room 407, State Capitol Building.

Roll was called by the secretary. A quorum being present consideration of the following bills was given: Senate Bills No. 142, 143, 144, S.J.Memorial No. 6, S.J. Resolution No. 9, Substitute S.J. Resolution No. 9, S. J. Memorial No. 9, Senate Bill No. 129.

People appearing before the committee: James B. Patton, Highway Users Conference; Mr. Reavely, John McLaughlin, Vice-Chairman of Montana Users Conference; Mr. Reardon, Inspector, for Highway Patrol, Robert English, Optometrist, Dillon, Representing Montana Medical Association, Oswald Berg, George Sime, Highway Department.

SJM 9, DO PASS CARRIED — Moved by Senator Reardon that S.J. M. No. 9 DO PASS; Seconded by Senator Mahoney. CARRIED.

SB.142 DO Pass — Moved by Senator Mahoney that committee recommend that S.B. 142 DO PASS; Seconded Senator Reardon. CARRIED.

Carried — Moved that senate bill No. 143 be amended as follows: Page 2, sub-section (b), lines 9,10, and 11, by striking out the following words and figures: "shall receive a salary of not less than ten thousand dollars ($10,000.00) per annum." and by inserting in lieu thereof the following: "at an annual salary to be set by the board." Seconded by Senator Reardon. Carried.

S.B. 143 DO PASS AS AMENDED — Moved that S.B. No. 143 DO PASS AS AMENDED, by Senator Mahoney; Seconded by Senator Reardon. CARRIED.

S.B.144 DO PASS AS AMENDED. — Moved that S.B. No. 144 DO PASS AS AMENDED as follows, by Senator Mahoney; Seconded by Senator Hauk. CARRIED.
Amended as follows: Section 26, page 16, line 18 by striking the words "as hereinafter set forth." and by inserting in lieu thereof, the following words as follows: "under the provisions of this act."

S.B.191 Postponed — Moved by Senator Mahoney that S.B. No. 191 be postponed for consideration for the time being. Seconded Senator Reardon. Carried.

SJR.9 DO NOT PASS SUB. SJR.9 DO PASS CARRIED — Moved by Senator Stein that Senate Joint Resolution No. 9 DO NOT PASS, but that Substitute Senate Joint Resolution No. 9. DO PASS; Seconded, Senator Michaels. CARRIED.

February 23, 1963

Mr. Clayton Brown, representing the Montana Transport Ass'n., appeared in support of S.B. 142 and explained it to the Committee. He stated that it redefined "occasional hire" and the "accommodation hauler" and also increased fines for violations. The bill would help the R.R. andPub. Serv. Com. in enforcing the present MRC laws in the state. At the present, it is very difficult to prove a trucker isn't just an occasional hauler. He did not like the amendment to the bill.

Sen. Michels spoke in support of the amendment which he felt protected the public so that the trucker didn't get everything in their favor.

Mr. William Muffich, attorney for the Railroad and Public Service Commission was introduced. He said he had been authorized to speak in support of the bill. He said that it was very difficult to prove in court that a trucker isn't an occasional hauler. He gave an example of one trucker making 40 trips in 10 days and still calling himself an hauler for "occasional hire". The Commission collected a $27 fine from him but there was nothing paid to the federal government for his use of the highways. He felt these laws would help get business back to the licensed haulers and the railroads which needed the business and were operating legitimately. He gave different examples of those who would be exempt from the MRC license requirements. He stated a great deal of money is lost to the state under the present law. Rep. Lundgren asked about the Christmas tree hauler and Mr. Muffich stated they were exempt from the MRC fee the same as haulers of farm commodities. In answer to Rep. Leuthold's question as to the method of determining if a person were a licensed hauler, Mr. Muffich answered that generally they displayed their MRC licenses. He stated the Board did not draw up this bill but they are entirely in support of both bills because it will give them something to work with.

Mr. John Willard, representing the Montana Railroad Association, stated he thought the bill was very well covered and they were in agreement with the amendments. The bills would allow some control and still let the farmer do what is essential to his business. He stated the main difficulty lay in hauling an exempt farm commodity and picking up a pay load to haul back. These bills would define the exempt commodity hauler and the occasional hire and he thought both bills would accomplish what was needed.

Sen. Michels explained S.B. 143 which would set up a motor vehicle division in the Railroad and Public Service Commission. He stated the Board had appeared in the Senate and requested this bill.

Mr. Brown stated that the Board is involved in so many things that it cannot devote much time to the motor carriers.

February 28, 1963

The Highways Committee met at 8:00 A.M. with a quorum present and Chairman Broeder presiding.

Mr. Bill Mortieu was present to explain S.B. 144 which would set up a Montana Motor Vehicle Reciprocity Board of 6 members. South Dakota has already adopted this act and it is being introduced in the other western states this year. The act was drawn up in 1960 but did not get to the legislatures in 1961. Reciprocity now extends in 15 states west of the Mississippi and as far west as the Pacific Coast. It did not change any of the provisions of the present reciprocity rates. The six-member board would allow the head of the G.V.W. Div. of the state highway department to be a member.

Capt. Kerr of the highway patrol, said it would assist in the enforcement of the reciprocity laws. It reduced enforcement problems to the minimum. The highway patrol was responsible for the enforcement of all commercial vehicle regulations. Mr. Mortieu presented a brief on the bill which is attached. He stated that British Columbia has also entered into reciprocity agreements with the other states. Generally the reciprocity provisions were waived when it concerned farm people. The visitors were excused.

Rep. Schye said the bill was a good bill and because Montana was such a large state, Montana made money on the reciprocity. He moved that S.B. 144 be concurred in, seconded by Rep. Turnage and the motion carried.

Rep. Seymour reported on the sub-committee work for S.B. 142. He stated he had Ty Robinson, attorney for the Montana Railroad Association, look it over and he said it is all right. Chairman Broeder stated that it would catch the hauler that doesn't pay his fee. Rey. Seymour moved that S.B. 142 be concurred in, seconded by Rep. Egan and the motion carried unanimously.

Rep. Turnage moved that S.B. 143 be concurred in, seconded by Rep. Leuthold and the motion carried with all in favor of it.

Sen. Graham was present to explain S.B. 157 which would change the present automobile registration laws in that the license plate would stay with the owner and not the car. It would have to be amended if H.B. 135 was adopted to conform with the change in the assessment date. Mr. Alex Stephenson said it would aid in law enforcement as many times the transfer of title to a car was about 3 owners behind and if a man were picked up for a stolen car and found innocent, the officer could in return be sued for false arrest. He stated that if thepatrolmen could establish ownership quickly it would be a big help in case of accidents, etc. Sen. Graham stated that Wyoming has a law similar to this and they think it is very good.

Mr. Bill Osborn, Assessor for Lewis and Clark County, appeared to question the administration of the law, especially automobile

thousand (8000) or more shall be districts of the first class. All districts having a population of one thousand (1000) or more, and less than eight thousand (8000) shall be districts of the second class, and all districts having a population of less than one thousand (1000) shall be districts of the third class. In districts of the first class the number of trustees shall be seven (7); in districts of the second class the number of trustees shall be five (5), and in districts of the third class the number of trustees shall be three (3).

Number of trustees.

Change to proper class.

Whenever the population of any school district shall increase beyond or decrease below the number required as specified above for a certain class of school district, the county superintendent of schools shall declare such school district to be changed to the proper class. *The county superintendent may compute the population by multiplying by three the number of school census children in the district. No school district shall be changed in classification more than once in any five (5) year period.* The county superintendent of schools shall take the necessary steps to provide that at the next school election to elect the proper number of school trustees as designated above and to fill all vacancies due to any change of classification. Provided however that the provisions of this act shall not affect the terms of trustees heretofore elected."

Computation.

One change in five years allowed.

Elections—duties of county superintendent.

Approved March 7, 1963.

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## CHAPTER NO. 204

An Act to Redefine Occasional Transportation, 'For Hire' Operation, and Prima Facie Acts Deeming a Person to Be a Motor Carrier; Increasing Fines Imposed for Violations; and Amending Sections 8-101, 8-119 and 8-121, R. C. M., 1947.

*Be it enacted by the Legislative Assembly of the State of Montana:*

Amending clause.

Section 1. Section 8-101, R. C. M., 1947, is amended to read as follows:

Definitions.

"8-101. (3847.1) **Definition of terms.** Unless the language or context clearly indicates that different meanings are intended, the following words, terms and phrases





shall, for the purposes of this act, be given the meanings hereinafter subjoined to them.

(a) The word 'board' means the board of railroad commissioners of the state of Montana. "Board."

(b) The term 'corporation' means a corporation, company, association or joint stock association. "Corporation."

(c) The term 'person' means an individual, firm or co-partnership. "Person."

(d) The word 'certificate' means the certificate of public convenience and necessity authorized to be issued under the provisions of this act. "Certificate."

(e) The term 'public highway' means every public street, road, highway, or way in this state. "Public highway."

(f) The term 'motor vehicle' shall include all vehicles or machines propelled by any power other than muscular used upon the public highways for the transportation of persons and/or property. "Motor vehicle."

(g) The words 'between fixed termini or over a regular route' when used in this act, mean the termini or route between or over which any motor carrier usually or ordinarily operates any motor vehicles, even though there may be periodical or irregular departures from said termini or route. Whether or not a motor vehicle is operated by a motor carrier between fixed termini, or over a regular route, or otherwise, within the meaning of this act, shall be a question of fact to be determined by the board. "Between fixed termini over a regular route."

(h) The term 'motor carrier,' when used in this act, means every person or corporation, their lessees, trustees, or receivers appointed by any court whatsoever, operating motor vehicles upon any public highway in the state of Montana for the transportation of persons and/or property for hire, on a commercial basis either as a common carrier or under private contract, agreement, charter, or undertaking; provided that nothing in this act shall be construed as affecting motor vehicles used in carrying property consisting of ordinary livestock or agricultural commodities (not including manufactured products thereof), if such motor vehicles are not used in carrying any other property, or passengers, for compensation, or, the operation of school busses which are used in conveying "Motor carrier."

school children to and from district or other schools, or the transportation by means of motor vehicles in the regular course of business of employees, supplies, and materials by any person, firm or corporation engaged exclusively in the construction or maintenance of highways, or engaged exclusively in logging or mining operations, insofar as the use of employees, supplies and materials in construction and production is concerned, or the transportation of property by motor vehicle within any city, town, or village with a population, according to the latest United States census, of less than five hundred persons, or within the commercial areas thereof as determined by the board.

"For hire." (i) The words 'for hire' mean for remuneration of any kind, paid or promised, either directly or indirectly, *or received or obtained through leasing, brokering or buy-and-sell arrangements whereby a remuneration is obtained or derived for transportation service.* An accommodative transportation *movement* by a person not in the transportation business shall not be construed as a service for hire, even though the persons *owning the property* transported *or persons transported* share in the cost or pay for the *movement. Nothing in this act shall be construed so as to prevent bona fide leases, brokerage agreements or buy-and-sell agreements.*

"Compensation." (j) The word 'compensation,' as used in this act, shall mean the charge imposed upon motor carriers in consideration of the use of the highways in this state by such motor carriers, as provided in section 8-116.

"Railroad." (k) The word 'railroad' means the movement of cars on rails, regardless of the motive power used therefor.''

Amending clause. Section 2. Section 8-119, R. C. M., 1947, is amended to read as follows:

Violations—penalties. ''8-119. (3847.19) **Penalties for violations.** Any motor carrier, subject to the provisions of this act, or, whenever any such motor carrier is a corporation, any director or officer thereof, or any receiver, trustee, lessee, agent, or persons acting for or employed by such corporation, who violates or fails to comply with or who procures, aids, or abets in the violation of any provision of this act, or who fails to obey, observe, or comply with any lawful order, decision, rule or regulation, direction,





demand, or requirement of the board, or any part of provisions thereof, shall be deemed guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine of not less than *twenty-five dollars ($25.00)* nor more than *five hundred dollars ($500.00),* or by imprisonment in the county jail for a period of not more than thirty (30) days, or by both such fine and imprisonment.''

Amending clause. Section 3. Section 8-121, R. C. M., 1947, is amended to read as follows:

Acts which prima facie deem person to be motor carrier. ''8-121. (3847.21) **Acts which prima facie deem person to be motor carrier.** Any person, firm or corporation maintaining a public motor vehicle stand, or by sign, symbol, or device or vehicle or clothing, or by advertisement holds forth transportation for compensation, or solicits the transportation of persons or property for compensation among the public, or solicits for trips for compensation, *or provides transportation service to the public under the guise of leasing or buy-and-sell arrangements,* shall be deemed, prima facie, a 'motor carrier' subject to this act, and the burden of proof shall be on such person, firm or corporation to disprove such status.''

Severability. Section 4. It is the intent of the legislative assembly that if a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Approved March 7, 1963.

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## CHAPTER NO. 205

An Act Providing for Appointment of a Supervisor of Motor Carriers by the Board of Railroad Commissioners; Describing the Duties, Qualifications and Powers of Such Supervisor; and Amending Section 8-103, R. C. M., 1947.

*Be it enacted by the Legislative Assembly of the State of Montana:*

Amending clause. Section 1. Section 8-103, R. C. M., 1947, is amended to read as follows: